

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 15479 of 2001

Between:

J.Paparao, Senior Stenographer, Office of Commissioner/CAD, I & CAD Department,
Jalasoutha Complex, Errum Manzil, Hyderabad

..... PETITIONER/PARTY-IN-PERSON

AND

1. The Government of Andhra Pradesh, represented by its Principal Secretary to Government, I & C.A.D.Department, J.Block, 7th Floor, Secretariat Buildings, Hyderabad.
2. The Engineer-in-Chief, (AW) I & CAD Department, Errum Manzil, Hyderabad.
3. The Commissioner/CAD, I & CAD Department, Jalasoudha Complex, Errum Manzil, Hyderabad.
4. The Registrar, A.P.A.T., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the A.P.Administrative Tribunal in dismissing the O.A.No.1397/2000, O.A.No.2766 of 2000 with VMS 268/2000 and O.A.No.692 of 2001 without taking into consideration the grounds raised in O.A.s, which relate to the question of law as illegal, arbitrary, vindictive besides violation of Article 2 14,15

16 & 21 of the Constitution of India and consequently set aside the impugned judgment in question, dated 09.07.2001.

Counsel for the Petitioner:Mr.J.PAPA RAO, PARTY-IN-PERSON

Counsel for the Respondents: GP FOR SERVICES III

MR.M.surrender Rao, Advocate, as amicus curiae.

ORDER: (PER GB.J)

1) This writ petition is filed by the petitioner challenging the order passed by the Tribunal in O.A.No.1397 of 2000, O.A.No.2766 of 2000 with VMA No.268 of 2000 & O.A.No.692 of 2001, dated 09.07.2001, seeking to absorb him in the 3rd respondent establishment i.e., C.A.D. Department, Hyderabad and also to effect promotion.

2) The petitioner has undergone a chequered career of service. He was initially appointed as Senior Stenographer by the Superintending Engineer and was

posted to work in I & CAD Department in Secretariat. However, there were doubts about the parent Department of the petitioner for the reason that he has been transferred from one wing to another wing frequently. In the year 1982, the Government issued orders in G.O.Ms.No.50, dated 21.06.1982, wherein, the Engineer-in-Chief was directed to regularize the services of the petitioner and to absorb him in ENC unit, treating the post as 'sanctioned'. Against the said order, it appears, the petitioner filed R.P.No.95 of 1983 on the file of the Andhra Pradesh Appellate Tribunal. There after, he was transferred to the 3rd respondent Unit i.e., Commissioner/CAD vide Memo No.731/I & CAD Dept.V/87-3, dated 29.06.1987. The grievance of the petitioner is that neither his seniority was maintained by the ENC nor absorbed him in any of the Department. In the meanwhile, juniors to the petitioner were promoted to the higher posts. Therefore, he filed O.A.No.692 of 2001 praying the Tribunal to take into consideration the observations of Lokayukta and dispose of O.A.No.1397 of 2000 and the same was disposed of by an order, dated 09.07.2001. Against which, the present writ petition has been filed.

3) Though the petitioner has continued to approach the Tribunal and also this Court, time and again, his principal grievance is that his parent department has not been identified so far. Therefore, his service interests have been verymuch jeopardised. Eventhough he was appointed in the year 1978, he was not promoted to any higher post. Had he been placed in the regular Department, he would have got promotions. Therefore, he seeks appropriate directions. This Court could not understand what is the exact relief sought for by the petitioner.

4) Sri M.Surender Rao, learned counsel was appointed as *amicus curiae* to assist this Court and he has very kindly accepted the assignment.

5) The learned counsel submits that after going through various orders of the Tribunal and also the Government from time

to time, the petitioner has now been placed in the Unit of ENC. Therefore, from 1978 onwards, he should be deemed to be the employee of ENC and taking into consideration the seniority of the petitioner right from 1978, he is entitled for promotions and other benefits that accrue to him. Though the party in person assisted by the *amicus curiae* submits that the petitioner is interested to join C.A.D.A Department, he feels that C.A.D.A Department is only a temporary establishment and it does not have its cadre strength. While he was working in Secretariat, he was sent on deputation to C.A.D.A Department. Therefore, the petitioner cannot have any right to continue in the C.A.D.A Department. In G.O.Rt.No.360, Irrigation & Command Area Development (CAD.Ser.1(1) Department, dated 08.05.2000 it has been clearly stated that he stands posted to Engineer-in-Chief (AW) Unit and his seniority and other benefits are maintained right from the date of his appointment i.e., 13.10.1978 and though he has worked in number of offices, he is deemed to be in service from 1978 till date. G.O.Ms.No.360, dated 08.05.2000 issued by the Government reads as follows:

“ The Engineer-in-Chief (AW) has been requested to take necessary action in the matter duly following the parameters in fixing the seniority of J.Paparao in the category of Senior Steno as part of the Office of Engineer-in-Chief (AW) i.e., with reference to the date of joining duty by the individual (i.e., w.e.f. 13.10.1978) duly keeping him at the last rank as on the date of 13.10.1978 and consequential benefits be allowed to the individual as per the entitlement in the Office of the Engineer-in-Chief from 13.10.1978 till 28.06.1987 ”.

6) In view of this categorical assertion by the Government, it is established that the petitioner is an employee born on the strength of Engineer-in-Chief and it is also specifically stated that his seniority will be reckoned from 13.10.1978 for all purposes, namely, promotion and other benefits. Under these circumstances, we are of the view that G.O.Ms.No.360 has to be implemented in its totality.

7) Yet another grievance of the petitioner, is ventilated by *amicus curiae*. He submits that a person who is junior to the petitioner by name Mr.Ramamurthy was transferred from Sreekakulam to ENC Office, Hyderabad and posted as Special Category Stenographer and still he is continuing in that office. We need not make any specific observation in this regard. If any junior in the cadre of Senior Stenographer is promoted during the interregnum, the petitioner is entitled for seniority right from 13.10.1978 and he is also entitled for the consequential benefit of promotion, fixation of pay and other benefits in accordance with the rules. We are not specifying the benefits, which accrue to the petitioner in pursuance of G.O.Ms.No.360 and it is for the petitioner to make a detailed representation seeking the relief, which accrued to the petitioner in pursuance of G.O.Ms.No.360, dated 08.05.2000. The petitioner shall report before E.N.C. within a period of two weeks from today. On such report, the E.N.C. shall pass appropriate posting orders keeping in view his designation and seniority.

8) With the above directions, the writ petition is disposed of. No costs.

9) This court placed on record the appreciation for the assistance rendered by Sri M.Surender Rao, as *amicus curiae*.

G.BIKSHAPATHY.J.,

P.S.NARAYANA.J.,

02.03.20005

c.c.in four days

B/o

tjs

To

1. The Prl.Secretary to Government, Government of Andhra Pradesh, I. & C.A.D.Department, J.Block, 7th Floor, Secretariat Buildings, Hyderabad.
2. The Engineer-in-Chief (AW) I & CAD Department, Errum Manzil, Hyderabad
3. The Commissioner/CAD, I & CAD. Department, Jalasoudha Complex, Errum Manzil, Hyderabad.
4. The Registry, A.P.A.T., Hyderabad
5. 2 CCs to the G.P. for Services-II, High Court of A.P., Hyderabad. (OUT)
6. 2 CD copies.